



February 5, 2004

Ms. Marlene H. Dortch  
Federal Communications Commission  
445 12th Street, S.W., Room 1-A836  
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation in CC Docket Nos., 96-262, 99-68, 01-318, 01-321, 03-173, 01-338, 96-98, 98-147

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, this letter is to provide notice in the above-captioned docketed proceedings of *ex parte* meetings on February 4, 2004, by Jonathan Askin and John Windhausen of the Association for Local Telecommunications Services (ALTS), and the following members of the ALTS Operating Board: Julia Strow of Cbeyond, Penny Bewick of NewEdge, John Sumpter of PacWest, Mike Duke of KMC, and Mark Jenn of TDS METROCOM. In a series of meetings, the parties met with Christopher Libertelli, Trey Hanbury, Commissioner Abernathy, Matt Brill, Commissioner Martin, Dan Gonzalez, Jessica Rosenworcel, Commissioner Adelstein, Lisa Zaina, Bill Maher, Robb Tanner, Michelle Carey, Tamara Preiss, Brent Olson, and Tom Navin. ALTS focused on the continuing needs of facilities-based CLECs and the actions needed to promote competition in the local telecommunications marketplace.

ALTS discussed the ILECs' continuing obligation to provide access to network "choke points." ALTS stressed that CLECs need nondiscriminatory, cost-based access to the full, features, functionalities, and capabilities of last-mile bottleneck facilities in order to bring affordable, innovative technologies and services to consumers. Such access compels ILECs to provide nondiscriminatory access to loops regardless of loop make-up or architecture, Line Sharing, EELs, collocation, and special access.

ALTS also addressed the regulatory treatment of Broadband and VoIP. ALTS noted that CLECs have made significant investment to build out networks and obtain "Common Carrier" status, and should be accorded the rights, and responsibilities, set forth in Title II of the Communications Act and in the FCC's implementing rules. Regulators should recognize the distinctions between, and varying rights and responsibilities of, "Telecom Carriers" and "Application Service Providers". There must also be recognition of the distinctions between dominant and nondominant carriers with continued regulatory obligations on ILECs to provide wholesale access to underlying bottleneck telecom transmission facilities. ALTS noted that there could, generally, be non-regulation of non-dominant providers of the "Applications" that ride on telecommunications transmission.

ALTS also stressed that the FCC should establish a unified, cost-based intercarrier compensation regime, which should be administered in a competitively neutral manner and ensure just compensation for the performance of inter-carrier services. ALTS noted that there should be uniform treatment for the exchange of traffic, and that the FCC should work to ensure that CLECs, because they lack market power and bargaining leverage, are not disadvantaged in

relation to ILECs and IXC's. With regard to the pending inter-carrier compensation proceedings currently under review at the FCC, ALTS noted, in particular, that LECs must be fairly compensated for performing aggregator services for other carriers (*i.e.*, CMRS 8YY traffic). ALTS also asked the FCC to act on the pending remand by the DC Circuit of the FCC's *ISP-Bound Recip Comp Order*. ALTS argued that locally-dialed ISP-bound traffic must be subject to Section 251(b)(5) and reciprocal compensation without price caps or new market restrictions.

ALTS also addressed the continuing problems that facilities-based CLECs face when attempting to deploy their own transmission facilities. ALTS stressed that, in order for CLECs to become less reliant on ILEC-provided transmission facilities, regulators must continue to work to ensure that CLECs have fair access to buildings and rights-of-way to construct competitive facilities.

Finally, ALTS discussed the continuing problems associated with ensuring that ILECs abide by the market-opening provisions of the Telecom Act and that ILECs treat CLECs as valued wholesale customers. ALTS requested that the FCC reengage on the languishing dockets that were opened to establish performance metrics for wholesale provisioning. ALTS also noted that eight years ago, it had asked the FCC to compel the ILECs to negotiate in good faith over the inclusion of ordinary, commercial business rules in interconnection agreements. ALTS also suggested that the FCC establish a "Competition Ombudsman" to promote a competitive local telecommunications market. ALTS also asked for the FCC to take action to ensure timely resolution of complaint proceedings and to work to obtain authority to impose penalties that ensure compliance with the market-opening provisions of the Telecom Act.

If you have any questions about this matter, please contact me at 202-969-2587.

Respectfully submitted,

/s/

Jonathan Askin

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